

Committee on the Application of Standards

Date: 13 May 2021

▶ Work of the Committee

I. Work of the Committee

1. This document (D.1) sets out the manner in which the work of the Committee on the Application of Standards (CAS) is carried out. It is submitted to the Committee for adoption when it begins its work at each session of the Conference.¹ This document reflects the results of the discussions and informal tripartite consultations that have taken place, since 2002, on the working methods of the Committee, including on the following issues: the elaboration of the list of individual cases to be discussed by the Committee; the preparation and adoption of the conclusions relating to these individual cases; time management and respect for parliamentary rules of decorum.
2. This document takes into account the results of the last informal tripartite consultations on the working methods of the CAS, held on 30 March, 12 April and 27 April 2021. These consultations examined the special adjustments to the working methods of the Committee required to allow it to discharge its constitutional obligations within the framework of a fully virtual session of the Conference and a reduced number of sittings.

II. Terms of reference and composition of the Committee, voting procedure and report to the Conference

3. Under its terms of reference as defined in article 7, paragraph 1, of the Standing Orders of the Conference, the Committee is called upon to consider:
 - (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
 - (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
 - (c) the measures taken by Members in accordance with article 35 of the Constitution.
4. In accordance with article 7, paragraph 2, of the Standing Orders of the Conference, the Committee submits a report to the Conference. Since 2007, in response to the wishes expressed by ILO constituents, the report of the Committee has been published both in

¹ Since 2010, the document is appended to the General Report of the Committee.

the *Record of Proceedings* of the Conference and as a separate publication, to improve the visibility of the Committee's work.

5. Questions related to the composition of the Committee, the right to participate in its work and the voting procedure are regulated by section H of Part II of the Standing Orders of the Conference.
6. Each year, the Committee elects its Officers: its Chairperson and Vice-Chairpersons, as well as its Reporter.

III. Working documents

A. Report of the Committee of Experts

7. The basic working document of the Committee is the report of the Committee of Experts on the Application of Conventions and Recommendations (Report III (Parts A and B)), printed in two volumes.
8. Report III (Part A) contains, in Part One, the General Report of the Committee of Experts, and in Part Two, the observations of the Committee of Experts concerning the sending of reports, the application of ratified Conventions and the obligation to submit the Conventions and Recommendations to the competent authorities in Member States. At the beginning of the report there is an index of comments by Convention and by country. In addition to the observations contained in its report, the Committee of Experts has, as in previous years, made direct requests which are communicated to governments by the Office on the Committee's behalf.²
9. Report III (Part B) contains the General Survey prepared by the Committee of Experts on a group of Conventions and Recommendations decided upon by the Governing Body.
10. This year, in the light of the deferral of the 109th Session of the Conference to 2021, the Governing Body decided to invite the CAS to examine in 2021 the 2019 Report III (Parts A and B), as updated by the Committee of Experts at its 91st Session, in December 2020.

B. Summaries of reports

11. At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification of the arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 19, 22 and 35 of the Constitution.³ Requests for consultation or copies of reports may be addressed to the secretariat of the CAS.

C. Other information

12. The secretariat prepares documents (which are referred to, and referenced, as "D documents") which are made available⁴ during the course of the work of the Committee through its [web page](#) to provide the following information:

² See para. 71 of the General Report of the Committee of Experts. A list of direct requests can be found in Appendix VII of Report III (Part A).

³ See report of the Committee of Experts, Report III (Part A), Appendices I, II, IV, V and VI; and Report III (Part B), Appendix III.

⁴ D documents will be made available online on the Committee's dedicated web page.

- (a) reports and information which have reached the International Labour Office since the last meeting of the Committee of Experts; based on this information, the list of governments which are invited to supply information to the Conference Committee due to serious failure to respect their reporting and other standards-related obligations is updated;⁵
- (b) written information supplied by governments to the Conference Committee in reply to the observations made by the Committee of Experts, when these governments are on the preliminary list of cases or on the list of individual cases adopted by the Conference Committee;⁶
- (c) written information supplied by governments that have been requested to supply information on cases of serious failure to respect reporting or other standards-related obligations for the stated periods;⁷
- (d) written information supplied by delegates during the general discussion.⁸

IV. General discussion

13. In accordance with its usual practice, the Committee begins its work with the consideration of its working methods on the basis of this document. The Committee then holds a discussion on general aspects of the application of Conventions and Recommendations and the discharge by Member States of standards-related obligations under the ILO Constitution, which is primarily based on the General Report of the Committee of Experts.
14. In the context of the tripartite consultations held in March and April 2021, it was decided that this year, on an exceptional basis in view of the special circumstances in which the session of the Committee will take place, the general discussion will be divided into two segments of 90 minutes each. One segment will be devoted to the discussion of the General Report and the other to the item “Application of international labour standards in the context of the COVID-19 pandemic”. In view of the speaking time limits for these discussions (see Part IX below), delegates may also submit written information. This information will be published 24 hours before the relevant sitting, translated into the three languages, and included in the Committee’s final report.⁹
15. The Committee will also hold a discussion on the General Survey, entitled *Promoting employment and decent work in a changing landscape*. The General Survey concerns the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).¹⁰

⁵ See below Part V.

⁶ See below Part VI (supply of information).

⁷ See below Part V.

⁸ See below Part IV.

⁹ The Committee’s report will distinguish between written information and information shared orally.

¹⁰ It should be recalled that the subjects of General Surveys have been aligned with the strategic objectives that are examined in the context of the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for

16. At the informal tripartite consultations in March–April 2021, it was decided that, exceptionally, a single three-hour sitting would be devoted to the discussion of the General Survey, with the usual speaking times (see below, Part IX). It was also confirmed that the discussion would be structured around three generic questions, on the understanding that this would not have the effect of restricting speakers' presentations to those issues addressed in the General Survey. The generic questions are:
- progress and challenges in the implementation of the instruments under examination;
 - measures to be taken to promote Conventions and their ratification in the light of the good practices and obstacles identified; and
 - pathways for future ILO standards action and technical assistance.

V. Cases of serious failure by Member States to respect their reporting and other standards-related obligations

17. Governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods. These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting will not be called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.
18. In the context of the informal tripartite consultations in March–April 2021, it was decided that this year, on an exceptional basis, a special procedure would be set up for the consideration of cases of serious failure to respect reporting obligations:
- the governments concerned are invited to communicate written information on such failures by **20 May 2021**;
 - the Employer and Worker spokespersons are invited to send their general comments **no later than Thursday, 3 June 2021**;
 - the Office will publish a document compiling the information received, in the three languages, **24 hours before the sitting devoted to the examination of these cases**;
 - during the sitting, the governments concerned may, if they so wish, provide information on any new development, with a maximum speaking time of two minutes, and the Employer and Worker spokespersons will present their concluding remarks.
19. It should be recalled that the Committee identifies the cases on the basis of criteria which are as follows:¹¹

a Fair Globalization (2008). The discussion of General Surveys by the Committee will continue to be held one year in advance of the recurrent discussion under the new five-year cycle of recurrent discussions adopted by the Governing Body in November 2016. The full synchronization of General Surveys and their discussion by the Committee will be re-established under the new cycle in the context of the recurrent discussion on social protection (social security) to be held by the Conference in 2020 (see GB.328/INS/5/2 and GB.328/PV (paras 25 and 102)).

¹¹ These criteria were last examined by the Committee in 1980 (see *Provisional Record* No. 37, International Labour Conference, 66th Session, 1980, para. 30).

- none of the reports on ratified Conventions have been supplied during the past two years or more;
 - first reports on ratified Conventions have not been supplied for at least two years;
 - none of the reports on unratified Conventions and Recommendations requested under article 19, paragraphs 5, 6 and 7, of the Constitution have been supplied during the past five years;
 - no indication is available on whether steps have been taken to submit the instruments adopted during the last seven sessions of the Conference to the competent authorities, in accordance with article 19 of the Constitution;¹²
 - no information has been received as regards all or most of the observations and direct requests of the Committee of Experts to which a reply was requested for the period under consideration;
 - the government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of reports and information supplied to the Office have been communicated.
- 20.** At its 88th and 89th Sessions (2017 and 2018), the Committee of Experts decided to institute a new practice of launching “urgent appeals” on cases corresponding to certain criteria of serious reporting failure.¹³ The aim is also to draw the attention of the CAS to these cases, so that governments may be called before it. Thus, at its session in November–December 2020, the Committee of Experts issued urgent appeals to four countries that had failed to send the reports requested for three years or more, and to five countries that had failed to send a first report for three years or more.¹⁴ The countries to which urgent appeals have been addressed will be invited to provide information to the Committee during the examination of cases of serious failure to comply with reporting obligations.

VI. Individual cases

- 21.** The Committee considers a certain number of cases relating to the application of ratified Conventions. These cases are selected on the basis of the observations published in the report of the Committee of Experts.
- 22. Preliminary list.** Since 2006, an early communication to governments of a preliminary list of individual cases for possible discussion by the Committee concerning the application of ratified Conventions has been instituted. Since 2015, the preliminary list of cases has been made available 30 days before the opening of the International Labour Conference. The preliminary list is a response to the requests from governments for early notification, so that they may better prepare themselves for a possible intervention before the Committee. It may not in any way be considered definitive, as the adoption of

¹² This time frame begins at the 96th Session (2007) and concludes at the 106th Session (2017) of the International Labour Conference, bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009), 102nd (2013) and 105th (2016) Sessions.

¹³ See paras 9 and 10 of the General Report of the Committee of Experts, Report III (Part A), International Labour Conference, 107th Session, 2018.

¹⁴ See paras 103 and 106 of the General Report of the Committee of Experts, Report III (Part A), International Labour Conference, 109th Session, 2020.

a final list is a function that only the Committee itself can assume. During the informal tripartite consultations of March 2019, it was decided to provide the opportunity for governments appearing on the preliminary list of cases to provide, if they so wished, written information to the Committee. This information provided, on a purely voluntary basis, should concern only new developments not yet examined by the Committee of Experts. They must be transmitted in at least one of the three working languages of the Office at the latest two weeks before the beginning of the opening of the session of the Conference ¹⁵ and, to the extent possible, shall not exceed 2,000 words.

23. Establishment of the list of cases. The list of individual cases is submitted to the Committee for adoption, after the Employers' and Workers' groups have met to discuss and adopt it. The final list is normally adopted at the beginning of the Committee's work, ideally no later than its second sitting. In the context of the informal tripartite consultations in March–April 2021, it was decided that this year, on an exceptional basis, the final list could be adopted during the early opening sitting of the session of the Committee, to be held on 28 May 2021.

24. As of the revision in 2015 of the criteria for the selection of cases, the selection should take into consideration, on balance, the following elements:

- the nature of the comments of the Committee of Experts, in particular the existence of a footnote;
- the quality and scope of responses provided by the government or the absence of a response on its part;
- the seriousness and persistence of shortcomings in the application of the Convention;
- the urgency of a specific situation;
- comments received by employers' and workers' organizations;
- the nature of a specific situation (if it raises a hitherto undiscussed question, or if the case presents an interesting approach to solving questions of application);
- the discussions and conclusions of the Conference Committee of previous sessions and, in particular, the existence of a special paragraph;
- the likelihood that discussing the case would have a tangible impact;
- balance between fundamental, governance and technical Conventions;
- geographical balance; and
- balance between developed and developing countries.

25. There is also the possibility of examining one case of progress as was done in 2006, 2007, 2008 and 2013. ¹⁶

26. Since 2007, it has been the practice to follow the adoption of the list of individual cases with an informal information session for governments, hosted by the Employer and Worker Vice-Chairpersons, to explain the criteria used for the selection of individual cases.

27. Automatic registration. Since 2010, cases included in the final list have been automatically registered and scheduled by the Office, on the basis of a rotating alphabetical system, following the French alphabetical order. The "A+5" model has been

¹⁵ During the informal tripartite consultations, it was agreed that the deadline for sending this information would be 20 May 2021.

¹⁶ See paras 83–89 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for identifying cases of progress are also reproduced in Appendix II of this document.

chosen to ensure a genuine rotation of countries on the list. This year, the registration will begin with countries with the letter “Y”. Cases will be divided into two groups: the first group of countries to be registered following the above alphabetical order will consist of those cases in which the Committee of Experts requested governments to submit full particulars to the Conference (“double-footnoted cases”).¹⁷ The Office will then register the second group, which will comprise the other cases on the final list, also following the above-mentioned alphabetical order. It should be noted that, in the context of the informal tripartite consultations in March–April 2021, it was agreed that, this year, the Office would adapt this practice in respect of planning to take account of different time zones and the complexity of cases.

- 28.** Information on the agenda of the Committee and the date on which cases may be heard is available:
- (a) through the *Daily Bulletin* and the Committee’s dedicated web page;
 - (b) by means of a D document containing the list of individual cases and the working schedule for the examination of these cases, which is made available to the Committee as soon as possible after the adoption of the list of cases.¹⁸
- 29. Supply of information.** Prior to their oral intervention before the Conference Committee, governments may submit written information that will be summarized by the Office and made available to the Committee.¹⁹ This written information is to be provided to the Office at least two days before the discussion of the case. It serves to complement the oral intervention by the government representative of the country concerned. It may not reproduce the information contained in the oral statement nor any other information already provided by the government. The total number of pages is not to exceed five pages.
- 30. Adoption of conclusions.** The conclusions regarding individual cases are proposed by the Vice-Chairpersons and submitted by the Chairperson to the Committee for adoption. The conclusions should take due account of the elements raised in the discussion and information provided in writing by the government. The conclusions should be short, clear and specify the action expected of governments. They may also include reference to the technical assistance to be provided by the Office. The conclusions should reflect consensus recommendations. Divergent views can be reflected in the Committee’s record of proceedings.
- 31.** Conclusions on the cases discussed will be adopted at dedicated sittings. During the informal tripartite consultations of March–April 2021, it was agreed that the conclusions of all the individual cases would be adopted at a single dedicated sitting at the end of the session of the Committee.²⁰ The conclusions are made visible on a screen and at the same time a copy of these conclusions is provided to the government representative concerned in one of the three working languages, chosen by the government. Given the virtual format of the session, this year the draft conclusions will be transmitted to a person designated by the government concerned a few hours before the adoption of the text. The government representatives may take the floor after the Chairperson has announced the adoption of the conclusions.

¹⁷ See para. 80 of the General Report of the Committee of Experts.

¹⁸ Since 2010, this document is appended to the General Report of the Committee.

¹⁹ See above Part III(C).

²⁰ The sitting dedicated to the adoption of conclusions on individual cases is scheduled for Friday, 18 June.

32. As per the Committee's decision in 1980,²¹ Part One of its report will contain a section entitled "Application of ratified Conventions", in which the Committee draws the attention of the Conference to: (i) cases of progress, where governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee; (ii) certain special cases, which are mentioned in special paragraphs of the report; and (iii) cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed – including "urgent appeals" (see section V).

VII. Participation in the work of the Committee

33. As regards failure by a government to take part in the discussion concerning its country, despite repeated invitations by the Committee, the following measures will be applied, in conformity with the decision taken by the Committee at the 73rd Session of the Conference (1987), as amended at the 97th Session of the Conference (2008),²² and mention will be made in the relevant part of the Committee's report:
- In accordance with the usual practice, after having established the list of cases regarding which Government delegates might be invited to supply information to the Committee, the Committee shall invite the governments of the countries concerned in writing, and the *Daily Bulletin* shall regularly mention these countries.
 - Three days before the end of the discussion of individual cases, the Chairperson of the Committee shall request the Clerk of the Conference to announce every day the names of the countries whose representatives have not yet responded to the Committee's invitation, urging them to do so as soon as possible.
 - On the last day of the discussion of individual cases, the Committee shall deal with the cases in which governments have not responded to the invitation. Given the importance of the Committee's mandate, assigned to it in 1926, to provide a tripartite forum for dialogue on outstanding issues relating to the application of ratified international labour Conventions, a refusal by a government to participate in the work of the Committee is a significant obstacle to the attainment of the core objectives of the International Labour Organization. For this reason, the Committee may discuss the substance of the cases concerning governments which are registered and present at the Conference, but which have chosen not to be present before the Committee. The debate which ensues in such cases will be reflected in the appropriate part of the report, concerning both individual cases and participation in the work of the Committee. In the case of governments that are not present at the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised.²³ In both situations, a particular emphasis will be put on steps to be taken to resume the dialogue.

²¹ See footnote 12 above.

²² See *Provisional Record* No. 24, International Labour Conference, 73rd Session, 1987, para. 33; and *Provisional Record* No. 19, International Labour Conference, 97th Session, 2008, para. 174.

²³ In the case of a government which is not accredited or registered to the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised. It was considered that no country should use inclusion on the preliminary list of individual cases as a reason for failing to ensure that it was accredited to the Conference. If a country on the preliminary list registered after the final list was approved, it should be asked to provide explanations (see *Provisional Record* No. 18, International Labour Conference, 100th Session, 2011, Part I/54).

VIII. Minutes of the sittings – Verbatim

- 34.** In the context of the informal tripartite consultations on the working methods of the Committee of November 2018 and March 2019, it was decided that the general discussion, the discussion of the General Survey, as well as the discussion of cases of serious failure to respect reporting or other standards-related obligations and the discussion of cases in which governments are invited to respond to the comments of the Committee of Experts (“individual” cases) will be produced in the form of verbatim transcripts. Each intervention will be reproduced *in extenso* in the language of work in which it has been delivered, or failing that, chosen by the government – English, French or Spanish – and the verbatim draft minutes will be made available online on the Committee’s dedicated web page.²⁴ It is the Committee’s practice to accept amendments to the verbatim draft minutes of previous sittings prior to their adoption by the Committee. The time available to delegates to submit amendments to the verbatim draft minutes will be clearly indicated by the Chairperson when they are made available to the Committee. The amendments should be clearly highlighted and submitted electronically.²⁵ In order to avoid delays in the preparation of the Committee’s report, no amendments may be accepted once the draft minutes have been approved. To the extent that the discussions are reproduced *in extenso* in the form of verbatim draft minutes, their amendments will be limited exclusively to the elimination of transcription errors.
- 35.** Following the informal tripartite consultations, it was also decided to reorganize the two parts of the Committee’s report. The first part of the report of the Committee will contain the verbatim minutes of the general discussion, the outcome of the discussions on the General Survey, the conclusions adopted following the examination of the “automatic” cases and the examination of the “individual” cases²⁶ – including, where appropriate, the special paragraphs, – as well as the verbatim minutes of the discussion on the adoption of the report and the closing remarks. This first part of the report will be produced in the form of a consolidated document and will be translated into the three languages for adoption by the Conference in plenary session.
- 36.** The second part of the report of the Committee will consist of trilingual (patchwork) verbatim minutes of the discussion of the General Survey, the discussion of “automatic” cases and the discussion of “individual” cases. These verbatim minutes will be available online on the Committee’s web page as they are adopted. The second part of the report of the Committee will be submitted to the plenary sitting of the Conference for adoption only in electronic format.
- 37.** The full report (first and second parts) translated into the three languages will be made available online 30 days after its adoption by the plenary sitting of the Conference.

²⁴ These new modalities result from the informal tripartite consultations of March 2016. Delegates who will be intervening in a language other than English, French or Spanish will be able to indicate to the Secretariat in which of these three working languages their intervention should be reflected in the verbatim draft minutes.

²⁵ Please refer to Appendix III or contact the secretariat in relation to the procedure for amendments to draft minutes.

²⁶ This year, as it has been decided that the Committee will adopt all the conclusions at the end of its session, it will not be possible in practice to reproduce all the conclusions in the first part of the Committee’s report. These conclusions will nevertheless be set out in the second part of the report.

IX. Time management

- 38.** Every effort will be made so that sessions start on time and the schedule is respected. During the informal tripartite consultations in March–April 2021, the speaking time limits applicable during the examination of individual cases were reviewed to take into account the special circumstances in which the Committee will have to fulfil its mandate given the limited number of sittings available and the virtual nature of the discussions. The speaking times to be applied on an exceptional basis will be as follows:
- 15 minutes for the government whose case is being discussed;
 - 10 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 6 minutes for the Employer and Worker members, respectively, from the country concerned, to be divided between the different speakers of each group;
 - 4 minutes for Government groups;
 - 3 minutes for the other members;²⁷
 - 10 minutes for the concluding remarks by the government whose case is being discussed;
 - 6 minutes for the concluding remarks by the spokespersons of the Workers' and the Employers' groups.
- 39.** Furthermore, with regard to the general discussion, it was decided, again on an exceptional basis, to limit the speaking time for each of the segments of the general discussion as follows:
- 15 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 5 minutes for statements by Government groups;
 - 3 minutes for the other members.
- 40.** Speaking time limits applicable to the discussion of the General Survey will remain the same, namely:²⁸
- 15 minutes for the spokespersons of the Workers' and the Employers' groups;
 - 10 minutes for Government groups;
 - 5 minutes for the other members;
 - 10 minutes for the concluding remarks by the spokespersons of the Workers' and the Employers' groups.

The Chairperson, in consultation with the other Officers of the Committee, may nevertheless decide to reduce the time limits where the situation of a case would warrant it, for instance, where there is a very long list of speakers. These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.

²⁷ This time limit may be reduced to two minutes by the Chairperson, in consultation with the other Officers of the Committee, for instance where there is a very long list of speakers.

²⁸ These arrangements result from the informal tripartite consultations of March 2016.

41. During interventions, the remaining time available to speakers will be displayed on the screen and will be visible to all speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.
42. The list of speakers will also be visible on the screen. Early registration on that list of delegates intending to take the floor is encouraged.²⁹ At the informal tripartite consultations in March–April 2021, it was decided that a list of speakers would be drawn up 24 hours before the examination of each individual case. Delegates who are accredited to the Conference and registered in the Committee should request their inclusion on the list of speakers by sending an email to CAN2021@ilo.org. The speaking times will be adjusted according to the number of speakers registered. Speakers who have not registered in advance may be given the floor if time allows.
43. In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case.³⁰

X. Respect of rules of decorum and role of the Chairperson

44. All delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters.
45. It is the role and task of the Chairperson to maintain order and to ensure that the Committee does not deviate from its fundamental purpose to provide an international tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

²⁹ These arrangements result from the informal tripartite consultations of March 2016.

³⁰ See Part VI above.

Appendix 1

Criteria developed by the Committee of Experts for footnotes

Excerpts of the General Report of the 2021 Addendum to the 2020 Report of the Committee of Experts (109/III(A))

123. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2021.

124. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a “single footnote”, as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a “double footnote”. The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to “double footnotes” in deference to the Conference Committee’s decisions as to the cases it wishes to discuss.

125. The criteria to which the Committee has regard are the following:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

126. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

127. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

Appendix 2

Criteria developed by the Committee of Experts for identifying cases of progress

Excerpts of the General Report of the 2021 Addendum to the 2020 Report of the Committee of Experts (109/III(A))

130. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its *satisfaction* or *interest* at the progress achieved in the application of the respective Conventions.

131. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.
- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

132. Since first identifying cases of satisfaction in its report in 1964, the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue**, governments have taken measures through either the adoption of new **legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

[...]

135. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979. In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures.

The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
- consultations within the government and with the social partners;
- new policies;
- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

Appendix 3

Procedure for amendments to verbatim draft minutes

This note provides information on the new procedure for amendments to verbatim draft minutes referred to in Part VIII of document CAN/D.1. It should be noted that each intervention is reflected *in extenso* in the verbatim draft minute only in the working language used or chosen by the delegate for this purpose¹ (English, French or Spanish). The verbatim draft minutes will be made available online on the Committee's dedicated web page.

It is recalled that the Committee's practice is to accept amendments to the verbatim draft minutes of previous sittings **prior to their adoption by the Committee**. The time available to delegates to submit amendments to the verbatim draft minutes will be clearly indicated by the Chairperson when the verbatim draft minutes are made available to the Committee.

To the extent that the discussions are reproduced *in extenso* in the form of verbatim draft minutes, the amendments will be limited exclusively to the elimination of transcription errors.

Delegates should submit their amendments to the secretariat **electronically** in "track changes" via the following email address: CAN2021@ilo.org. In order to make amendments directly in track changes, delegates are invited to request the "Word version" of the verbatim minutes by sending an email to the address above.

Amendments will be received **only if they are sent from the email address** which will have been provided by the delegate concerned when requesting the floor. The secretariat will acknowledge receipt of the amendment and may contact the delegate concerned when the request does not fulfil the requirements contained in this document. Delegates should specify the verbatim draft minute concerned and make clearly visible the changes they wish to make.

¹ When filling in a request for the floor, delegates will be requested to indicate in which working language (English, French or Spanish) their intervention should be reflected in the verbatim draft minute, if this intervention is not in one of these three languages. They will also be requested to provide an email address and a phone number.